

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

NAVIENT SOLUTIONS, LLC,	.	Civil Action No. 1:19cv461
	.	
Plaintiff,	.	
	.	
vs.	.	Alexandria, Virginia
	.	August 20, 2021
THE LAW OFFICES OF JEFFREY	.	9:50 a.m.
LOHMAN, et al.,	.	
	.	
Defendants.	.	
	.	
.	

TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

VOLUME X

APPEARANCES:

FOR THE PLAINTIFF:	GEORGE R. CALHOUN, ESQ. Ifrah PLLC 1717 Pennsylvania Avenue, N.W. Suite 650 Washington, D.C. 20006
FOR THE LOHMAN DEFENDANTS:	JEFFREY E. GRELL, ESQ. Grell Feist PLC 825 Nicollet Mall, Suite 625 Minneapolis, MN 55402 and THOMAS F. URBAN, II, ESQ. Fletcher, Heald & Hildreth, PLC 1300 N. 17th Street, Suite 1100 Arlington, VA 22209
FOR DEFENDANTS GST FACTORING, INC.; GREGORY TRIMARCHE; AND RICK GRAFF:	MIKHAEL D. CHARNOFF, ESQ. Perry Charnoff PLLC 1010 N. Glebe Road, Suite 310 Arlington, VA 22201

(Pages 1456 - 1474)

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

APPEARANCES: (Cont'd.)

ALSO PRESENT:

JEFFREY LOHMAN, ESQ.

OFFICIAL COURT REPORTER:

ANNELIESE J. THOMSON, RDR, CRR
U.S. District Court, Third Floor
401 Courthouse Square
Alexandria, VA 22314
(703)299-8595

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(Jury out.)

THE CLERK: Civil Action 19-461, Navient Solutions, LLC, versus the Law Offices of Jeffrey Lohman, et al. Would counsel please note their appearances for the record.

MR. CALHOUN: Good morning. George Calhoun on behalf of Navient Solutions.

THE COURT: Good morning.

MR. GRELL: Good morning. Jeff Grell on behalf of the Lohman defendants.

THE COURT: Good morning, Mr. Grell.

MR. CHARNOFF: Good morning, Your Honor. Mike Charnoff on behalf of GST Factoring, Inc.; Greg Trimarche; and Rick Graff.

THE COURT: All right. Mr. Charnoff, you had something you wanted to raise with the Court?

MR. CHARNOFF: I do. It's not a motion. I just wanted to alert the Court to something. So the reason that we're starting a few minutes early is that Mr. Calhoun is going to be going downstairs to Judge Buchanan's courtroom to deal with a default judgment in this case with respect to a couple of other defendants.

THE COURT: Ah, okay.

MR. CHARNOFF: What I wanted to raise is I do not represent Buddy Sievers, I've never spoken to Buddy Sievers,

1 but he is the "S" in GST. And given that our jury is still
2 out, given that Your Honor has on the record contemplated
3 whether a directed verdict will be appropriate regardless of
4 what the jury has done, I just don't know that it's appropriate
5 for default judgments to be entered under the fact pattern
6 that, you know, was admitted.

7 THE COURT: Well, the magistrate judge can't enter a
8 default judgment.

9 MR. CHARNOFF: I understand.

10 THE COURT: All she can do is -- is this for ex parte
11 proof of damages then, or what is the hearing for?

12 MR. CALHOUN: Your Honor, she set a hearing --

13 THE COURT: Wait, just why don't you two switch
14 positions. Yeah.

15 MR. CALHOUN: We're not sure, Your Honor. She set
16 the hearing after the -- we waived a hearing. She set it. So
17 it probably is to discuss damages.

18 THE COURT: All right. Well, normally there has to
19 be proof of damages --

20 MR. CALHOUN: Yeah.

21 THE COURT: -- even if the case is, you know, at this
22 point in default.

23 So I think -- did you talk to her this morning? I
24 thought you were down on the fifth floor.

25 MR. CALHOUN: I went down to the fifth floor, but the

1 courtroom wasn't open yet, so I haven't talked to her yet.

2 THE COURT: Okay. Hold on one second.

3 Why don't you go -- Mr. Hendrick, go check on the
4 jury. If they're all here, you can start bringing them up.

5 THE COURT SECURITY OFFICER: Okay.

6 THE COURT: Okay?

7 THE COURT SECURITY OFFICER: Bring them out?

8 THE COURT: Yeah, yeah.

9 THE COURT SECURITY OFFICER: Okay, Judge.

10 THE COURT: Okay. I think you need to -- I'm sorry,
11 I have not -- I think she knows that we're in trial on this
12 case, and I can't see how any judgment that she might recommend
13 would be any different from what the jury is going to award in
14 this case, if they enter an award.

15 MR. CALHOUN: I can't either, Your Honor. I can't
16 either. And, you know, it's a little different. You know, by
17 defaulting, they've admitted the facts, but, you know, we'll
18 address that with her, and she'll make a recommendation.

19 I imagine that's going to trail this process most by
20 definition.

21 THE COURT: Well, what would be interesting is if the
22 jury were to come in either with a defense verdict or less
23 damages than what you're requesting. I mean, again, I don't
24 know what's holding them up at this point. It's been --
25 they've really almost been deliberating as long as the trial

1 actually went in, and I think, you know, depending upon where
2 they're at today, my feeling is until we get a question from
3 them or a comment that they're having difficulty, I'm going to
4 just let them continue doing what they're doing, but if we
5 should start to get rumblings that there's a problem, you know,
6 we'll have to address that. So you do want to stay close by
7 today.

8 It's interesting that they're stopping at five. I
9 don't think any of these jurors expressed a problem --

10 (Jury present.)

11 THE COURT: Good morning, folks. Well, you're a lot
12 like, you know, the Postal Service. Neither rain nor sleet, no
13 matter what's going on out there, is going to keep you from
14 your appointed duties. But again, I mean, you're here early on
15 a very rainy Friday morning, and I want to again express to you
16 the appreciation of the Court and the attorneys for your
17 diligence. I know this is a difficult case, complicated case,
18 and you're working very hard.

19 Again, last night, did any of you bump into any
20 problems at all?

21 (Jurors shaking heads.)

22 THE COURT: No? Are you all feeling all right?

23 (Jurors nodding heads.)

24 THE COURT: Good. Well, then I'm going to send you
25 down to the, to the deliberation room to continue your work,

1 and obviously, if you need to communicate with us, you know the
2 procedure.

3 The one thing I realize I forgot to mention to you
4 when I gave you the final instructions is if and when you do
5 reach any verdicts, the procedure besides having the
6 foreperson, you know, fill out the form and sign it is to fold
7 it over. You don't show it to my court security officer or
8 anybody. You -- and the foreperson brings them in her
9 possession into the courtroom, and then you hand it to the
10 court security officer, and he hands it to me, and then I read
11 the verdict to the, to the attorneys, all right? So that's
12 that procedure, all right?

13 So we're going to let you-all go, and hopefully the
14 temperature is all right down there. If not, we'll adjust it
15 accordingly. Thank you.

16 We're going to stay in session. I have a few matters
17 to talk out with counsel. Thank you.

18 (Jury out.)

19 THE COURT: All right. So as I said, I think at this
20 point, we're just going to wait and see what the jury does.
21 Just let Judge Buchanan know that the jury is still out.

22 MR. CALHOUN: Of course.

23 THE COURT: And it may be a very short hearing with
24 her. Is it the first matter on her docket today?

25 MR. CALHOUN: I believe it is, Your Honor.

1 THE COURT: All right. Well, I want to get you-all
2 down there in time then, all right? And we'll just recess
3 court to await the decision of the jury.

4 (Recess from 9:56 a.m., until 11:13 a.m.)

5 (Jury present.)

6 THE CLERK: Madam Foreperson, has the jury reached
7 its verdict?

8 FOREPERSON DANZI: We have.

9 THE CLERK: Can you hand it to the court security
10 officer, please.

11 In the matter of Civil Action 19-461, Navient
12 Solutions, LLC, versus the Law Offices of Jeffrey Lohman, et
13 al., as to Count II (RICO Violation 18-1962(c)), has Navient
14 Solutions, LLC, proven by a preponderance of the evidence that
15 Rick Graff conducted or participated in conducting an
16 enterprise through a pattern of racketeering?

17 "Yes."

18 Question 2: As to Count III (Conspiracy to Violate
19 RICO statute 18 U.S.C. 1962(d)), has Navient Solutions, LLC,
20 proven by a preponderance of the evidence that Rick Graff
21 conspired to conduct or to participate in the conduct of an
22 enterprise through a pattern of racketeering?

23 "Yes."

24 Question 3: If and only if you answered yes to
25 either Question 1 or 2, what, if any, damages do you

1 unanimously find Navient Solutions, LLC, has proven by a
2 preponderance of the evidence?

3 "\$50,000."

4 Question 4: As to Count V (Tortious Interference
5 with Contract or Business Expectancy), has Navient Solutions,
6 LLC, proven by a preponderance of the evidence that Rick Graff
7 tortiously interfered with Navient Solutions, LLC's contracts
8 or business expectancies?

9 "No."

10 Signed by Jury Foreperson, Sarah Danzi, August 20,
11 2021.

12 THE COURT: I think to make the record nice and
13 clear, let's have the jury acknowledge each of the verdicts
14 individually, all right?

15 THE CLERK: All right. Ladies and gentlemen, is this
16 your unanimous verdict?

17 ALL JURORS: Yes.

18 THE COURT: All right. For the record, all eight
19 jurors nodded yes or said yes.

20 THE CLERK: Special Jury Verdict as to Gregory
21 Trimarche. Question 1: As to Count II (RICO statute Violation
22 18 U.S.C. 1962(c)), has Navient Solutions, LLC, proven by a
23 preponderance of the evidence that Gregory Trimarche conducted
24 or participated in conducting an enterprise through a pattern
25 of racketeering?

1 "Yes."

2 Question 2: As to Count III (Conspiracy to Violate
3 RICO statute 18 U.S.C. 1962(d)), has Navient Solutions, LLC,
4 proven by a preponderance of the evidence that Gregory
5 Trimarche conspired to conduct or to participate in the conduct
6 of an enterprise through a pattern of racketeering?

7 "Yes."

8 Question 3: If and only if you answered yes to
9 either Question 1 or 2, what, if any, damages do you
10 unanimously find Navient Solutions, LLC, has proven by a
11 preponderance of the evidence?

12 "\$50,000."

13 Question 4: As to Count V (Tortious Interference
14 with Contract or Business Expectancy), has Navient Solutions,
15 LLC, proven by a preponderance of the evidence that Gregory
16 Trimarche tortiously interfered with Navient Solutions, LLC's
17 contracts or business expectancies?

18 "No."

19 Signed Foreperson, Sarah A. Danzi, August 20, 2021.

20 Ladies and gentlemen, is this your unanimous verdict?

21 (Jurors nodding heads.)

22 THE CLERK: Special Jury Verdict as to GST Factoring,
23 Inc. Question 1: As to Count II (RICO Violation statute 18
24 U.S.C. 1962(c)), has Navient Solutions, LLC, proven by a
25 preponderance of the evidence that GST Factoring, Inc.,

1 conducted or participated in conducting an enterprise through a
2 pattern of racketeering?

3 "Yes."

4 Question 2: As to Count III (Conspiracy to Violate
5 RICO statute 18 U.S.C. 1962(d)), has Navient Solutions, LLC,
6 proven by a preponderance of the evidence that GST Factoring,
7 Inc., conspired to conduct or to participate in the conduct of
8 an enterprise through a pattern of racketeering?

9 "Yes."

10 Question 3: If and only if you answered yes to
11 Question -- either Question 1 or 2, what, if any, damages do
12 you unanimously find Navient Solutions, LLC, has proven by a
13 preponderance of the evidence?

14 "\$860,000."

15 Question 4: As to Count V (Tortious Interference
16 with Contract or Business Expectancy), has Navient Solutions,
17 LLC, proven by a preponderance of the evidence that GST
18 Factoring, Inc., tortiously interfered with Navient Solutions,
19 LLC's contracts or business expectancies?

20 "Yes."

21 Question 5: If and only if you answered yes to
22 Question 4, what, if any, damages do you unanimously find
23 Navient Solutions, LLC, has proven by a preponderance of the
24 evidence?

25 "\$860,000."

1 Question 6: If the jury has awarded damages for more
2 than one count, did the jury intend for the damages to be added
3 to each other?

4 "No."

5 Signed Foreperson, Sarah A. Danzi, August 20, 2021.

6 Ladies and gentlemen, is this your unanimous verdict?

7 (Jurors nodding heads.)

8 THE COURT: Again, the jurors all nodded yes.

9 THE CLERK: Special Jury Verdict as to Jeffrey
10 Lohman. Question 1, as to Count II, (RICO Violation statute 18
11 U.S.C. 1962(c)), has Navient Solutions, LLC, proven by a
12 preponderance of the evidence that Jeffrey Lohman conducted or
13 participated in conducting an enterprise through a pattern of
14 racketeering?

15 "Yes."

16 Question 2: As to Count III (Conspiracy to Violate
17 RICO statute 18 U.S.C. 1962(d)), has Navient Solutions, LLC,
18 proven by a preponderance of the evidence that Jeffrey Lohman
19 conspired to conduct or to participate in the conduct of an
20 enterprise through a pattern of racketeering?

21 "Yes."

22 Question 3: If and only if you answered yes to
23 either Questions 1 or 2, what, if any, damages do you
24 unanimously find Navient Solutions, LLC, has proven by a
25 preponderance of the evidence?

1 "\$100,000."

2 Question 4: As to Count IV (Fraud), has Navient
3 Solutions, LLC, proven by clear and convincing evidence that
4 Jeffrey Lohman committed fraud against Navient Solutions, LLC?

5 "Yes."

6 Question 5: If and only if you answered yes to
7 Question 4, what, if any, damages do you unanimously find
8 Navient Solutions, LLC, has proven by a preponderance of the
9 evidence?

10 "\$100,000."

11 Question 6: As to Count V (Tortious Interference
12 with Contract or Business Expectancy), has Navient Solutions,
13 LLC, proven by a preponderance of the evidence that Jeffrey
14 Lohman tortiously interfered with Navient Solutions, LLC's
15 contracts or business expectancies?

16 "Yes."

17 Question 7: If and only if you answered yes to
18 Question 6, what, if any, damages do you unanimously find
19 Navient Solutions, LLC, has proven by a preponderance of the
20 evidence?

21 "\$100,000."

22 Question 8: If the jury has awarded damages for more
23 than one count, did the jury intend for damages to be added to
24 each other?

25 "No."

1 Signed Foreperson, Sarah A. Danzi, August 20, 2021.

2 Ladies and gentlemen, is this your unanimous verdict?

3 (Jurors nodding heads.)

4 THE COURT: Again, all jurors have nodded yes.

5 THE CLERK: Special Jury Verdict as to the Law
6 Offices of Jeffrey Lohman. Question 1: As to Count II, (RICO
7 Violation statute 18 U.S.C. 1962(c)), has Navient Solutions,
8 LLC, proven by a preponderance of the evidence that the Law
9 Offices of Jeffrey Lohman conducted or participated in
10 conducting an enterprise through a pattern of racketeering?

11 "Yes."

12 Question 2: As to Count III (Conspiracy to Violate
13 RICO statute 18 U.S.C. 1962(d)), has Navient Solutions, LLC,
14 proven by a preponderance of the evidence that the Law Offices
15 of Jeffrey Lohman conspired to conduct or to participate in the
16 conduct of an enterprise through a pattern of racketeering?

17 "Yes."

18 Question 3: If and only if you answered yes to
19 either Question 1 or 2, what, if any, damages do you
20 unanimously find Navient Solutions, LLC, has proven by a
21 preponderance of the evidence?

22 "\$1,146,500."

23 As to Count IV (Fraud), has Navient Solutions, LLC,
24 proven by clear and convincing evidence that the Law Offices of
25 Jeffrey Lohman committed fraud against Navient Solutions, LLC?

1 "Yes."

2 Question 5: If and only if you answered yes to
3 Question 4, what, if any, damages do you unanimously find
4 Navient Solutions, LLC, has proven by a preponderance of the
5 evidence?

6 "\$1,146,500."

7 Question 6: As to Count V (Tortious Interference
8 with Contract or Business Expectancy), has Navient Solutions,
9 LLC, proven by a preponderance of the evidence that the Law
10 Offices of Jeffrey Lohman tortiously interfered with Navient
11 Solutions, LLC's contracts or business expectancies?

12 "Yes."

13 Question 7: If and only if you answered yes to
14 Question 6, what, if any, damages do you unanimously find
15 Navient Solutions, LLC, has proven by a preponderance of the
16 evidence?

17 "\$1,146,500."

18 Question 8: If the jury has awarded damages for more
19 than one count, did the jury intend for the damages to be added
20 to each other?

21 "No."

22 Signed Foreperson, Sarah A. Danzi, August 20, 2021.

23 Ladies and gentlemen, is this your unanimous verdict?

24 (Jurors nodding heads.)

25 THE COURT: All right. Again, the jurors all -- and

1 for each verdict, the jury has all nodded their heads.

2 Counsel, does anyone want the jury individually
3 polled?

4 MR. CHARNOFF: Yes, Your Honor.

5 THE COURT: All right. All that means, ladies and
6 gentlemen, is we're going to ask each one of you by your name
7 if these five verdicts are -- fully accord with your
8 understanding of what the group agreed to and what you
9 personally agreed to, all right?

10 THE CLERK: Juror No. 47, James Tyree, is this your
11 unanimous verdict?

12 JUROR TYREE: Yes.

13 THE CLERK: Juror No. 7, Sarah Anne Danzi, is this
14 your unanimous verdict?

15 FOREPERSON DANZI: Yes.

16 THE CLERK: Juror No. 38, Eva Schroeder, is this your
17 unanimous verdict?

18 JUROR SCHROEDER: Yes.

19 THE CLERK: Juror No. 11, Nadja Golding, is this your
20 unanimous verdict?

21 JUROR GOLDING: Yes.

22 THE CLERK: Juror No. 45, Mark Thomas, is this your
23 unanimous verdict?

24 JUROR THOMAS: Yes.

25 THE CLERK: Juror No. 4, Brenda Butler, is this your

1 unanimous verdict?

2 JUROR BUTLER: Yes.

3 THE CLERK: Juror No. 16, Christian Jensen, is this
4 your unanimous verdict?

5 JUROR JENSEN: Yes.

6 THE CLERK: Juror No. 30, Dana Peifer, is this your
7 unanimous verdict?

8 JUROR PEIFER: Yes.

9 THE COURT: All right. Then, ladies and gentlemen,
10 on behalf of the Court and the parties, we all want to thank
11 you for two weeks of service to this Court and to our civil
12 justice system. I know there's a lot of jokes about, oh, dear,
13 I've got jury service, and people don't want to do it, but, you
14 know, this is an extremely important civic function. It's just
15 like serving in the military. It's like going to the polls and
16 voting.

17 Good citizens are willing to do this type of job.
18 It's a real sacrifice, which we do appreciate each of you has
19 been willing to undergo, but we could not conduct our trials
20 without the willingness of civilian citizens like yourselves to
21 sit in court and listen carefully to the evidence and do what
22 you feel is the best you can given the strange way in which we
23 try cases. So I want to thank you.

24 We're going to release you now. If you'll go back
25 down to the third floor room, we'll be in touch with you in a

1 couple of minutes just to finish everything up. But we'll stay
2 in session for a second while you-all leave.

3 (Jury excused.)

4 THE COURT: All right. Now, I think what I'm going
5 to do on this is we'll obviously have the decision of the jury
6 reflected. I'm going to give you-all two weeks to file
7 posttrial motions. I also strongly recommend you might want to
8 sit down among yourselves and see whether you can resolve any
9 of the issues here. If not, you know, we'll obviously have
10 some posttrial matters to take care of. There's also the issue
11 of the plaintiff's attorneys' fees.

12 Again, to the extent you can work that out, that
13 would be valuable, but I think two weeks should give you enough
14 time since most of these issues have been briefed anyway. So
15 I'll say two weeks for the defense to file any posttrial
16 motions that you have, and then, Mr. Calhoun, Navient will have
17 two weeks to respond to them. We'll probably set this down for
18 oral argument, all right?

19 But I will direct at this point that the judgment of
20 the jury be entered, and we'll adjust it as necessary if
21 necessary. All right?

22 Anything further? You removed everything from the
23 courtroom, so I don't think there's anything left here.

24 What did Judge Buchanan do with the, with the --

25 MR. CALHOUN: She just took it under advisement, Your

1 Honor.

2 THE COURT: All right. So we'll let her know what
3 the jury did in this case.

4 Anything further at this point?

5 MR. CALHOUN: No, Your Honor.

6 THE COURT: No? All right, then we'll recess court
7 for the day.

8 (Which were all the proceedings
9 had at this time.)

10
11 CERTIFICATE OF THE REPORTER

12 I certify that the foregoing is a correct transcript of
13 the record of proceedings in the above-entitled matter.

14
15
16 /s/

Anneliese J. Thomson